

## IN THE CLAIMS:

Please amend claims 1 and 5, and add new claims 51-69 as set forth below. The following listing of the claims and their status will replace all prior versions or listings.

1. (Currently amended) A method of creating a transverse cavity in a bone comprising the steps of:  
     inserting a tool having a tool body ~~area~~, into a bone through an opening in the bone  
defining a tool body insertion area;  
     activating a blade pivotally mounted in and located in said tool body to swing through  
     an arc defining a transverse cavity;  
     said transverse cavity having an area larger than said tool body ~~area~~ insertion area.
2. (Original) The method of claim 1, wherein said blade is blunt.
3. (Original) The method of claim 1, wherein said blade includes a cutting surface.
4. (Original) The method of claim 1 wherein said transverse cavity is symmetric about a plane defined by the long axis of the blade in its initial position and a line normal to the transverse plane to be created.
5. (Currently amended) The method of claim 1 wherein said transverse cavity is asymmetric about ~~the~~ a vertical axis through the bone.

Claims 6-44 (Canceled)

45. (Previously Presented) The method of claim 1, wherein said blade is mounted on said tool body for rotational motion about a pivot.
46. (Previously Presented) The method of claim 45, wherein said rotational motion of said blade is activated by a push-pull motion.

47. (Previously Presented) The method of claim 1, wherein said blade is defined by a flexible element pivotally mounted to said tool body at a hinge point, said flexible element swinging outwardly upon being activated to define said transverse cavity.

48. (Previously Presented) The method of claim 47, wherein said flexible element is defined by two flexible arms each capable of swinging outwardly in substantially opposite directions.

49. (Previously Presented) The method of claim 48, wherein said arms are activated for swinging simultaneously.

50. (Previously Presented) The method of claim 48, wherein said arms are activated for swinging independently.

51. (New) A method of creating a transverse cavity in a bone having a compression fracture, comprising the steps of:

identifying a surface in a bone that is to be restored to its normal anatomical position, said surface generally defining a transverse plane;

inserting a tool having a tool body area into the bone adjacent said surface;

activating a movable element operably supported by said tool in a direction outwardly from said tool body and substantially parallel to said surface to define a transverse cavity having an area greater than said tool body area and a substantially uniform height in a direction generally perpendicular to said transverse plane.

52. (New) The method of claim 51 wherein said movable element includes a blade pivotally mounted on said tool body to swing through an arc.

53. (New) The method of claim 52, wherein said blade is blunt.

54. (New) The method of claim 52, wherein said blade includes a cutting surface.

55. (New) The method of claim 52, wherein said blade is mounted on said tool body for rotational motion about a pivot.

56. (New) The method of claim 55, wherein said rotational motion of said blade is activated by a push-pull motion.

57. (New) The method of claim 52, wherein said blade is defined by a flexible element pivotally mounted to said tool body at a hinge point, said flexible element swinging outwardly upon being activated to define said transverse cavity.

58. (New) The method of claim 51, wherein said area of said transverse cavity is generally oval in shape.

59. (New) The method of claim 51, wherein the compression fracture to be restored is selected from the group consisting of vertebral compression fractures, tibial plateau fractures, distal radius fractures, calcareous fractures, distal tibial fractures, and humeral fractures.

60. (New) The method of claim 51, wherein the compression fracture is a vertebral compression fracture and said surface to be restored is an endplate surface of a vertebral body.

61. (New) The method of claim 60, wherein said tool is inserted through the pedicle of said vertebral body along a surgical entry point.

62. (New) The method of claim 61, wherein said surgical entry point is selected from the group of approaches consisting of a transpedicular approach and an extra-pedicular approach.

63. (New) A method of creating a transverse cavity in a bone comprising the steps of:

inserting a tool having a tool body area into a bone;

after insertion, activating a blade pivotally mounted in and located in said tool body to swing through an arc defining a transverse cavity;

said transverse cavity having an area larger than said tool body area.

64. (New) The method of claim 63, wherein said blade is blunt.

65. (New) The method of claim 63, wherein said blade includes a cutting surface.

66. (New) The method of claim 63, wherein said blade is mounted on said tool body for rotational motion about a pivot.

67. New) The method of claim 66, wherein said rotational motion of said blade is activated by a push-pull motion.

68. (New) The method of claim 63, wherein said blade is defined by a flexible element pivotally mounted to said tool body at a hinge point, said flexible element swinging outwardly upon being activated to define said transverse cavity.

69. (New) The method of claim 68, wherein said flexible element is defined by two flexible arms each capable of swinging outwardly in substantially opposite directions.



## TRANSMITTAL LETTER FOR AMENDMENT

MMB Docket No. 1842-0012

In re patent application of: **Johnson et al.**

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Serial No. **09/873,699**

Examiner: **M. Brown**

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For: **Transverse Cavity Device and Method**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 26, 2005

(Date of Deposit)

Michael D. Beck

Name of person mailing Document or Fee

*Michael D. Beck*

Signature of person mailing Document or Fee

September 26, 2005

Date of Signature

TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith is an Amendment and Response After Action in the above-identified patent application. The fee has been calculated as shown below.

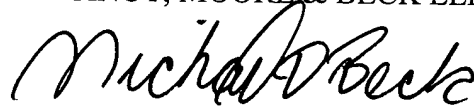
### CLAIMS AS AMENDED

	Claims Remaining After Amendment	Highest No. Paid For	Fee Calculation	Addit Fee
Total Claims	30	44	0 x 25	\$0.00
Independent Claims	3	5	0 X 100	\$0.00
Total Additional Fee Required				\$0.00

\* Please provide any extensions of time that may be necessary and charge any fees that may be due to Deposit Account No. 13-0014, but not to include any payment of issue fees.

Respectfully submitted,

MAGINOT, MOORE & BECK LLP

A handwritten signature in black ink, appearing to read "Michael D. Beck". The signature is fluid and cursive, with the first name "Michael" and last name "Beck" clearly distinguishable.

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